

AGREEMENT NUMBER

**07-T3368**

REGISTRATION NUMBER

**39600907256198**

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

Department of Toxic Substances Control

CONTRACTOR'S NAME

U.S. Environmental Protection Agency

2. The term of this Agreement is: Sept. 12, 2007 through Sept. 28, 2012

3. The maximum amount of this Agreement is: \$ 1,014,300.00  
One million fourteen thousand three hundred dollars and no cents

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Scope of Work – U.S. EPA; "Frontier Fertilizer Superfund Site" 16 page(s)

Exhibit B – Budget Detail and Payment Provisions – U.S. EPA; "Statement of Work" 3 page(s)

Exhibit C\* – General Terms and Conditions GTC-307

Check mark one item below as Exhibit D:

☐  
☒

Exhibit - D Special Terms and Conditions (Attached hereto as part of this agreement)

124 page(s)

Exhibit - D\* Special Terms and Conditions – U.S. EPA; "Record of Decision" (ROD)

Exhibit E – Additional Provisions

N/A page(s)

Items shown with an Asterisk (\*), are hereby incorporated by reference and made part of this agreement as if attached hereto.  
These documents can be viewed at [www.ols.dgs.ca.gov/Standard+Language](http://www.ols.dgs.ca.gov/Standard+Language)

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

**CONTRACTOR**

CONTRACTOR'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

U.S. Environmental Protection Agency

BY (Authorized Signature)

DATE SIGNED (Do not type)

SEE PAGE 16 FOR OFFICIAL SIGNATURES

PRINTED NAME AND TITLE OF PERSON SIGNING

Keith Takata, Director, Superfund Division

ADDRESS

75 Hawthorne Street, SFD-1  
San Francisco, CA 94105

**STATE OF CALIFORNIA**

AGENCY NAME

Department of Toxic Substances Control

BY (Authorized Signature)

DATE SIGNED (Do not type)

SEE PAGE 16 FOR OFFICIAL SIGNATURES

PRINTED NAME AND TITLE OF PERSON SIGNING

ADDRESS

P.O. Box 806, Sacramento, CA 95812-0806

California Department of General  
Services Use Only

☐ Exempt per:

**Frontier Fertilizer Superfund Site  
State Superfund Contract  
Source Control Remedy Component**

1. GENERAL AUTHORITY

This State Superfund Contract ("Contract") is entered into pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), (42 U.S.C. § 9601 et seq.), as amended, the National Oil and Hazardous Substances Pollution Contingency Plan, 55 Fed. Reg. 8666 et seq., 40 CFR Part 300, March 8, 1990. (Hereafter referred to as the ("NCP"), and other applicable Federal regulations, including 40 CFR Part 35, Subpart O, and 40 CFR Part 31 and California Health and Safety Code section 25300 et seq.

2. PURPOSE

Pursuant to Section 104(c) of CERCLA, 42 U.S.C. § 9604(c), the United States Environmental Protection Agency ("U.S. EPA") and the Department of Toxic Substances Control ("DTSC"), on behalf of the State of California (the "State"), do hereby enter into this Contract to document the responsibilities of U.S. EPA, as lead agency, and the State, as support agency, during the Source Control Remedy Component ("Remedial Action") at the Frontier Fertilizer Superfund Site, U.S. EPA CERCLIS ID NPL No. CAD071530380, (the "Site") including the basic purpose, scope, and administration of this Contract. The Remedial Action represents the source control portion of the remedy selected in the Record of Decision dated September 28, 2006 ("ROD"), which is attached hereto as Appendix A. This work is further described in the Statement of Work ("SOW") attached hereto as Appendix B. The SOW includes the estimated cost to perform the Remedial Action. The Governor of California has designated DTSC to represent the State with respect to U.S. EPA-lead response actions, including the Remedial Action at the Site pursuant to 40 CFR § 300.180. The parties acknowledge and agree that this Contract is intended to obtain the required CERCLA assurances pursuant to Sections 104(c)(3), 104(c)(9), and 104(j) of CERCLA, 42 U.S.C. §§ 9604(c)(3), 9604(c)(9), and 9604(j), and to document State involvement in the Remedial Action cleanup process, pursuant to Section 121(f) of CERCLA, 42 U.S.C. § 121(f), and 40 CFR § 300.515(g) of the NCP to the extent applicable. This Contract covers Remedial Action, as defined in this paragraph.

3. SITE DESCRIPTION

The Frontier Fertilizer Superfund Site ("Site") is located in Davis, California (Yolo County). The Site includes a triangular shaped 11.43-acre parcel, Assessor's Parcel Number 071-412-031, owned by Pine Tree Properties; and an adjacent 7-acre parcel which is part of a 10.98-acre parcel, Assessor's Parcel Number 071-411-07, known as the "Remainder Parcel." The National Superfund Database Number (CERCLIS) is #CAD071530380. The Site is described in detail in the ROD (see Appendix A).

4. DURATION OF THIS CONTRACT

This Contract shall become effective upon execution by U.S. EPA and the State, and approval by the California Department of General Services, and shall remain in effect until the parties determine that the Remedial Action as described in the SOW is complete or that the final reconciliation of the Remedial Action costs has been satisfied, whichever is later, but in no event after September 28, 2012. Notwithstanding the foregoing, the operation and maintenance assurance required by Section 104(c)(3)(A) of CERCLA, as set forth in Paragraph 23 hereof, shall remain in effect for the expected life of such actions.

U.S. EPA and the State may extend the duration of this Contract by amendment pursuant to Paragraph 30 below if additional time is needed to complete the Remedial Action, close out the Remedial Action, or reconcile costs.

If within 365 calendar days from the Effective Date of this Contract U.S. EPA has not awarded a construction contract for the work described in the SOW, the State may terminate this Contract by providing written notice of termination to U.S. EPA. In the event that the construction described in the SOW has not been completed within three (3) years following the date of this Contract, the State may terminate this Contract by providing written notice of termination to U.S. EPA not more than ninety (90) days following the three (3) year anniversary date of the Contract

5. DESIGNATION OF PRIMARY CONTACTS AND THEIR RESPONSIBILITIES

- a. The U.S. EPA Remedial Project Manager (RPM) and the State Project Manager (SPM) shall be as follows:

DTSC (SPM)

Steve Ross  
Department of Toxic Substances Control  
8800 Cal Center Drive.  
Sacramento, CA 95826  
(916) 255-3694  
(916) 255-3694

U.S. EPA (RPM)

Bonnie Arthur  
U. S. EPA  
75 Hawthorne Street  
**Mail Code:** SFD-8-1  
San Francisco, CA 94105  
(415) 972-3030

The U.S. EPA may change its designated RPM by letter to the State signatories without amending this Contract. The State may change its designated SPM by letter to the U.S. EPA signatories without amending this Contract. Such notice shall be deemed to incorporate such change into this Contract.

- b. U.S. EPA RPM and SPM Consultation on Cost Changes

The RPM, in consultation with the SPM, may make changes to the work outlined in the SOW that do not alter the scope of the Remedial Action or increase the total cost of the Remedial Action without affecting the validity of this Contract. Any change to the work that (a) alters the scope of the Remedial Action or (b) increases the total cost of the Remedial Action as set forth in Section 16.b of this Contract, shall require an amendment to this Contract.

The RPM shall provide a written notice to the SPM and to the DTSC Unit Chief identifying any proposed change orders. Proposed change orders in excess of \$100,000 require notice 14 days prior to the implementation of said changes. The length of time in which the RPM shall provide written notice of a proposed change order may be changed from the 14 calendar day period if mutually agreed upon in writing.

Should there be a disagreement over implementing a proposed change in work, the issue resolution process as outlined in Section 35 of this Contract shall be followed.

## 6. NEGATION OF AGENCY RELATIONSHIPS

Nothing contained in this Contract shall be construed to create an express or implied agency relationship between U.S. EPA and the State. U.S. EPA and its employees, agents, and contractors are not authorized to represent or act on behalf of the State in any matter relating to the subject matter of this Contract. The State and its employees, agents, and contractors are not authorized to represent or act on behalf of U.S. EPA in any matter relating to this Contract.

## 7. SITE ACCESS

### a. Site Access

U.S. EPA shall use its own authority to secure access to the Site and adjacent properties necessary for U.S. EPA, its contractors, and the State to conduct the Remedial Action undertaken pursuant to the ROD, including operation and maintenance; access instruments may include, but are not limited to, leases, rights-of-way, and easements. In entering into any access agreement, U.S. EPA will use its best efforts to negotiate for continuous and transferable access rights to all elements of the Remedial Action and upon transfer to the State at the end of this contract shall assign its access rights to the State. The State may secure access under its own authority, and may request assistance from U.S. EPA as necessary. At U.S. EPA's request, the State shall obtain, or assist U.S. EPA in obtaining, any permits necessary to conduct the activities described in the ROD.

b. State Site Visits

Insofar as U.S. EPA has access to the Site, representatives of the State shall have access to the Site to the same extent as U.S. EPA for the purpose of reviewing work in progress, subject to the State's compliance with the Site's safety plan. To the extent feasible, representatives of the State shall coordinate with the RPM prior to visiting the Site.

c. U.S. EPA Liability Waiver

U.S. EPA shall not be responsible for any harm to any State representative or other person arising out of, or resulting from, any act or omission by the State in the course of an on-Site visit.

d. State Liability Waiver

The State shall not be responsible for any harm to any U.S. EPA representative or other person arising out of, or resulting from, any act or omission by U.S. EPA in the course of an on-Site visit.

8. THIRD PARTIES

a. Exclusion of Third Party Benefits

This Contract benefits the State and U.S. EPA only and extends no benefit or right to any third party not a signatory hereto.

b. Liability

U.S. EPA assumes no liability to third parties with respect to losses due to bodily injury or property damage that exceed the limitations set forth in 28 U.S.C. §1346(b) and §§ 2671-2680. To the extent permitted by State law, the State assumes no liability to any third parties with respect to losses due to bodily injury or property damage.

9. PROJECT SCHEDULE

U.S. EPA shall furnish to the State a copy of the Remedial Action schedule prepared by the contractor upon receipt thereof. Any change in the Remedial Action schedule shall not affect the validity of this Contract, unless such change is a substantial alteration, or otherwise creates a need to modify or terminate the contract as may be allowed under the terms of the Contract.

10. STATE REVIEW

a. State Funding: MSCA Funds

The State, at its own cost and expense, shall furnish the necessary personnel, materials, services, and facilities to perform its responsibilities under the terms of this Contract. In the event that the State is awarded separate funding for this Site under U.S. EPA Management Assistance Multi-Site Cooperative Agreement (MSCA), the State may use such monies to furnish the necessary personnel, materials, services, and facilities to perform its responsibilities under the terms of this Contract; provided, however, that MSCA funded in-kind services may not be used to satisfy the State's cost share for the Site.

b. Submission of Comments

U.S. EPA, in consultation with the State, shall specify a binding time frame for the State to review and submit comments on matters relating to the implementation of the Remedial Action, subject to the time frames set forth in 40 CFR § 300.515(h)(3). The RPM shall furnish, or arrange to have furnished, to the SPM in a reasonably timely manner the deliverables that the RPM, in consultation with the SPM, may determine to be appropriate for review and/or comment by the State. Failure by the State to review or submit comments on matters relating to the implementation of the Remedial Action within the time frames specified by U.S. EPA shall be deemed an election not to review and submit comments thereon. Failure to timely review and comment shall not delay the project schedule. The RPM shall maintain communications with the SPM regarding receipt of comments and responses thereto.

11. RECORDS ACCESS

a. Site Information

At U.S. EPA's request, and to the extent allowed by State law, the State shall make available to U.S. EPA any information in its possession concerning the Site except privileged or confidential information which is not protected from disclosure under federal law. At the State's request and to the extent allowed by Federal law, U.S. EPA shall make available to the State any information in its possession concerning the Site except privileged or confidential information which is not protected from disclosure under state law. U.S. EPA and the State shall agree upon a schedule for the reasonable, prompt submission of information concerning the Site.

b. Financial Record

U.S. EPA shall arrange to have furnished directly to the State a copy of the monthly progress report supplied by the contractor's project manager summarizing the activities performed in the previous month and a copy of the payment estimate for the corresponding period. Such monthly progress reports shall serve as documentation of the State's cost share pursuant to Section 16 of this Contract. However, if the payment estimate above differs from the actual costs, U.S. EPA will advise of any substantial differences and full documentation of all costs, except privileged or confidential information which is not protected from disclosure under state law, will be supplied during the reconciliation as noted in paragraph 29. Upon a request from the State, U.S. EPA will furnish to the State any other existing financial documentation, except privileged or confidential information which is not protected from disclosure under state law, pertinent to the Site.

c. Confidentiality

U.S. EPA shall not disclose information submitted by the State under a claim of confidentiality unless U.S. EPA is required to do so by Federal law and has given the State advance notice of its intent to release that information. Absent notice of such claim, U.S. EPA may make said information available to the public without further notice. The State shall not disclose information submitted by U.S. EPA under a claim of confidentiality unless the State is required to do so by State law and has given U.S. EPA advance notice of its intent to release that information. Absent notice of such claim, the State may make said information available to the public without further notice.

12. RECORDS RETENTION

U.S. EPA and the State shall maintain all of their respective financial and programmatic records, supporting documents, statistical records, and other records related to the Site for a minimum of ten years following the submission of the final reconciliation of Remedial Action costs. If any litigation, claim, negotiation, audit, cost recovery, or other action involving the records has been started before the expiration of the ten-year period, U.S. EPA and the State shall retain such records until completion of the action and resolution of all issues which arise from it, or until the end of the regular ten-year period, whichever is later. Microfilm copying must be performed in accordance with the technical regulations and records management procedures contained in 36 CFR Part 1230 and U.S. EPA Order 2160 (July 1984), respectively.

13. CERCLA REQUIREMENTS

U.S. EPA and the State shall follow all applicable program requirements, including CERCLA, the NCP, and U.S. EPA policy and guidance with respect to the Remedial Action for the Site.

14. OTHER SITE AGREEMENTS

All site-specific agreements concerning the Site, including, but not limited to, State cooperative agreements, State superfund contracts, consent agreements, and administrative orders, are as follows:

This Site has been included in the Multi-Site Cooperative Agreement (MSCA) which remains in effect between U.S. EPA and the State, and which is renewed annually and runs from July 1 through June 30 of the following year.

There is one previous State Superfund Contract for this Site. A State Superfund Contract for the Groundwater Pump and Treat Remedy Component (Agreement No.06-T3208) was approved by the California Department of General Services in September, 2007. Other portions of the Selected Remedial Action, as outlined in the ROD, fall outside the scope of this State Superfund Contract for Source Control. An additional separate State Superfund Contract(s) will be required to perform those portions of the ROD not covered by either the Groundwater Pump and Treat Remedy Component or the Source Control Remedy Component.

15. CERCLA ASSURANCE: COST SHARE

Sections 104(c)(3) and 104(d)(1) of CERCLA, 42 U.S.C. §§ 9604(C)(3) and 9604(d)(1), require that U.S. EPA determine whether the Site was publicly or privately operated at the time of the release, in order to determine the State's cost share. As the Site was privately operated, the State's cost share is ten percent (10%) of the Remedial Action costs.

16. COST-SHARE CONDITIONS

a. Calculated Cost

The calculated total cost of the construction and operation and maintenance of the Remedial Action ("Construction Costs") excluding EPA's direct and intramural costs is \$10,143,000. This calculated cost is derived from the Record of Decision and the In-Situ Heating Budget, included as part of Appendix B, and includes contingencies for change orders and construction management services.

Based on the foregoing, the State's cost share for Construction Costs is calculated to be \$1,014,300. Within six months following the date on which EPA



has provided written notice to the State that EPA has accepted the completed construction for the Remedial Action from the construction contractor pursuant to Paragraph 31d, EPA shall submit to the State an updated calculation of the cost of the operation and maintenance of the Remedial Action.

b. Payment Terms

- i. On or before February 28 of each year of this Contract, U.S. EPA shall submit to the State an invoice for the State's ten percent (10%) cost share for such portion of the work identified in the SOW as was completed during the applicable billing period. The invoice shall include the Contract Number and be submitted in duplicate (original plus one copy) to the DTSC Contract office listed below and a copy of the invoice shall be sent simultaneously to the SPM.

Chief of Contracts and Office Services  
California Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, California 95812-0806

Each invoice shall be accompanied by, first, a cost summary which indicates the name of the Site, the billing period, the general contractor that performed the work during such billing period, the identification number assigned to the general contractor, and the total costs incurred during the period for which U.S. EPA is billing the State ("Cost Summary"); and, second, invoices and supporting documentation which are furnished to U.S. EPA by the contracting agent and prime contractor performing the work described in the SOW, except privileged or confidential information which is not protected from disclosure under state law, ("Contractor Documentation"); provided, however, the U.S. EPA RPM may furnish the Contractor Documentation to the SPM during the course of the Remedial Action and U.S. EPA shall be deemed to have satisfied its obligations under this Paragraph. The Cost Summary and Contractor Documentation hereinafter shall be referred to collectively as the "Cost Documentation." Unless U.S. EPA agrees in writing to a longer period of time, the State shall pay the amount requested by such invoice within sixty (60) days following actual receipt of the invoice and Cost Documentation described herein.

The State assures payment of its cost share obligation for actual costs of the Remedial Action which shall be settled at reconciliation pursuant to Paragraph 29 below, and which shall, for work covered under this Contract, not exceed \$1,014,300 dollars for construction and the operation and maintenance. The State acknowledges that such assurance may require the State to seek additional appropriations to cover the work outlined in the SOW; provided, however, that the State's cost share obligation for construction, and operation

and maintenance may only be increased above the calculated cost set forth in Paragraph 16(A) by an amendment to this Contract. The State shall use its best efforts to obtain authorization of funds necessary to meet its assurance to pay its cost share obligation for actual costs of the Remedial Action including, but not limited to, the State's share of O & M obligations under Paragraph 23 below, in accordance with State law; notwithstanding the foregoing, nothing contained herein shall be interpreted as a commitment to appropriate, obligate or pay funds in contravention of State law.

- ii. Costs incurred by the State to offset cost-share requirements shall be verified and documented pursuant to the Multi-Site Cooperative Agreements (MSCA) identified in Paragraph 14 of this Contract. Except as otherwise provided in the MSCA, no in-kind services shall apply to the State's cost-share. Payment terms may be adjusted only by amendment to this Contract, pursuant to Paragraph 30 below. Any in-kind match shall comply with section 104(c)(5) of CERCLA, 40 CFR § 31.24, and 40 CFR § 35.6285.
- iii. All State payments shall be made payable to U.S. EPA and sent to the Regional Financial Management Office specified below:

United States Environmental Protection Agency  
Region 9 Superfund Receivables  
P.O. Box 371099M  
Pittsburgh, Pennsylvania 15251

c. State Credit

CERCLA credit may be applied to offset the State's cost-share requirements in this Contract. Credits are limited to expenses that U.S. EPA determines to be reasonable, documented, direct, extra-mural, out-of-pocket expenditures of non-Federal funds that have not been previously applied or reimbursed. The State has not declared credit for costs incurred at the Site at this time.

17. EMERGENCY RESPONSE ACTIVITIES

Nothing in this Contract shall be construed to restrict, impair or otherwise affect the authority of U.S. EPA or the State to carry out emergency response activities, including

removals. Notwithstanding the foregoing, any emergency response activities at the Site shall not increase the State's financial obligations under this Contract.

18. CERCLA ASSURANCE: 20-YEAR WASTE CAPACITY ASSURANCE

The State has submitted its Waste Capacity Assurance Plan to U.S. EPA. U.S. EPA has deemed this Waste Capacity Assurance Plan adequate pursuant to 40 CFR § 35.6120. Pursuant to CERCLA § 104(c)(9), (42 USC § 9604(c)(9)) the State hereby assures the availability of hazardous waste treatment or disposal facilities for 20 years following the execution of this Contract.

19. CERCLA ASSURANCE: OFF-SITE STORAGE, TREATMENT, OR DISPOSAL

Pursuant to § 104(c) (3) (B) and § 121(d) (3) of CERCLA, as amended (42 USC §§ 9604(c) (3) (B) and 9621(d) (3)), U.S. EPA and the State have determined that off-site treatment and storage of hazardous substances may be required for this Remedial Action. Investigation Derived Waste (IDW) will be characterized and, if required by federal or state hazardous waste regulations, will be disposed of at an approved off-site facility.

20. NOTIFICATION OF TRANSFERS OF HAZARDOUS WASTE

U.S. EPA or the State must provide written notification prior to the off-site shipment of hazardous waste from the Site to an out-of-State waste management facility, to: (i) The appropriate State environmental official for the State in which the waste management facility is located; and/or (ii) the appropriate Indian Tribal official who has jurisdictional authority in the area where the waste management facility is located.

21. CERCLA ASSURANCE: REAL PROPERTY ACQUISITION

U.S. EPA and the State have not yet determined whether or not the implementation of the ROD requires the acquisition of an interest in real property. In the event that U.S. EPA and the State determine in writing that the implementation of the Remedial Action requires acquisition of an interest in real property, U.S. EPA will use its authority under Section 104(j)(1) of CERCLA to acquire such property interest. In the event that U.S. EPA acquires any such property interest to implement the Remedial Action, the State shall accept from U.S. EPA the transfer of such property interest pursuant to Section 104(j)(2) of CERCLA. In the event that the State transfers any such real property interest to a third party, the State shall ensure that such real property remains subject to all institutional controls.

22. REMEDY SHAKEDOWN

Operational and Functional

The State has elected not to take the lead upon completion of construction pursuant to a state cooperative agreement. Pursuant to Section 104(c) (6) of CERCLA, 42 U.S.C. § 9604(c) (6), and the NCP, 40 C.F.R. § 300.435(f), EPA shall conduct activities necessary to ensure that the Remedial Action is operational and functional. For this purpose, construction will be considered to be complete after the completion of the final inspection, as described in Paragraph 31 below. The State shall be responsible for its ten percent cost-share during such time.

23. CERCLA ASSURANCE: OPERATION AND MAINTENANCE

The State hereby assures that the operation and maintenance (O&M) of the Remedial Action provided for under this Contract will remain in effect for the expected life of such Remedial Action pursuant to Section 104(c)(3)(A) of CERCLA, 42 U.S.C. § 9604(c)(3)(A), as amended.

The State shall use best efforts to secure and maintain authorization of funds necessary to undertake its obligations to continue the O&M for the Site hereunder; notwithstanding the foregoing, nothing contained herein shall be interpreted as a commitment to appropriate, obligate or pay funds in contravention of State law.

24. NPL DELETION

U.S. EPA shall consult with the State and provide the State with the criteria used to determine the effectiveness of the Remedial Action as well as the rationale for determining completion of the remedy before delisting the Site from the National Priorities List (NPL).

25. RESPONSIBLE PARTY ACTIVITIES

If at any time during the period of this Contract a responsible party comes forward to perform any work covered by this Contract, U.S. EPA and the State may amend or terminate this Contract.

26. ENFORCEMENT

Nothing contained in this Contract shall waive, or be deemed to waive, U.S. EPA's right to bring an action against any person or persons for liability under §§106 or 107 of CERCLA, 42 U.S.C. §§9606 or 9607, or any other statutory provision or common law. Nothing contained in this Contract shall waive, or be deemed to waive, the State's right to bring an action against any person or persons for liability under the California Health and Safety Code, or any other statutory provision or common law.

27. LITIGATION AND COST RECOVERY

U.S. EPA and the State may be entitled to assert claims against a third party (herein referred to as a potentially responsible party or (PRP) for reimbursement of any services, materials, monies or other items of value expended by U.S. EPA or the State for Fund-financed response activities.

28. SANCTIONS FOR FAILURE TO COMPLY

If either party fails to comply with the terms of this Contract, and if the parties have been unable to resolve the matter informally among themselves, then either party may proceed as set forth in 40 C.F.R. § 35.6805(o), which is incorporated herein by reference as if fully stated herein.

29. RECONCILIATION PROVISION

- a. Within two years following the execution of this agreement, U.S. EPA and the State shall reconcile all costs of construction of the Remedial Action. At the time that the construction costs are reconciled, upon request by the State, U.S. EPA shall furnish to the State documents supporting costs incurred by U.S. EPA, applying the criteria in Paragraph 11.a. The reconciliation of the construction costs shall not affect the duration of this Contract.
- b. Subject to Paragraph 4 hereof, this Contract shall remain in effect until the financial settlement of Remedial Action costs and final reconciliation of costs associated with implementation of the Remedial Action have been completed. Pursuant to 40 CFR § 35.6805(k), completion of final reconciliation shall mean that U.S. EPA and the State have satisfied their cost-share requirements specified in Paragraphs 15 and 16 above. The State may apply credit from other sites and from prior work on this site to the obligation under this Contract, subject to U.S. EPA's approval as set forth in 42 U.S.C. § 9604(c)(5), 40 CFR § 35.6285 and other applicable sections. Pursuant to 40 CFR § 35.6805(k), U.S. EPA will not use overpayments by the State to satisfy obligations at another site, but will instead reimburse the State for any overpayments. In the event that the payment terms above do not cover the cost of the Remedial Action, U.S. EPA will bill the State for the State cost share. Final reconciliation of Remedial Action costs by U.S. EPA shall follow acceptance of the Remedial Action by both U.S. EPA and the State and is not contingent upon deletion of the Site from the NPL. At the time of such reconciliation, upon request by the State, U.S. EPA shall furnish to the State documents supporting cost incurred by U.S. EPA. Contractual resolutions and final audit determinations that impact the Fund financed Remedial Action may require an amendment to this Contract pursuant to Paragraph 30.

30. AMENDMENT

U.S. EPA and the State may amend this Contract, in writing, for reasons which include, but are not limited to, cost revisions or modifications of the Remedial Action.

31. JOINT INSPECTION OF REMEDY

a. Prefinal Inspection

The RPM, in consultation with the SPM, shall conduct a prefinal inspection upon completion of the construction work to determine whether there are outstanding items which remain to be completed or corrected. The RPM shall provide such notice to the SPM as shall reasonably afford the SPM and opportunity to accompany the RPM on such inspection. The RPM shall prepare a prefinal inspection report summarizing any such outstanding items and shall furnish a copy of such report to the SPM.

b. Final Inspection

The RPM, in consultation with the SPM, shall conduct a final inspection upon completion of any outstanding construction items for the Remedial Action. The RPM shall provide such notice to the SPM as shall reasonably afford the SPM an opportunity to accompany the RPM on such inspection. The final inspection will consist of a walk-through inspection of the Remedial Action, and will focus on the outstanding construction items identified in the prefinal inspection. If the RPM determines that any items remain outstanding or uncorrected, the inspection shall be considered a prefinal inspection and the RPM shall prepare another prefinal inspection report and shall furnish a copy of such report to the SPM.

c. Close-out Report

Upon satisfactory completion of the final inspection, U.S. EPA will provide to the State a copy of the close-out report for the Remedial Action.

d. Acceptance of the Work

The U.S. EPA Regional Administrator, or his delegate, shall provide written notice to the State that U.S. EPA has accepted the completed Remedial Action from the construction contractor. U.S. EPA, in consultation with the State, will determine in writing that the construction and installation activities described in the SOW have been completed.

e. Acceptance of the Remedy

U.S. EPA and the State shall review the Remedial Action close-out report. The RPM shall coordinate with the SPM to obtain the State's concurrence that the Remedial Action is completed and performing adequately. Enforcement actions and other necessary activities may proceed independent of completion of reconciliation of construction costs; NPL deletion may proceed independent of reconciliation of costs.

32. CONCLUSION OF THIS CONTRACT

Subject to Paragraph 4 hereof, this Contract shall conclude when all of the following requirements have been met:

- i. the Remedial Action remediation measures have been satisfactorily completed and payments have been made as specified under Paragraphs 15 and 16 which address cost share;
- ii. the Financial Management Officer has a final accounting of all Remedial Action costs, including change orders and contractor claims, pursuant to Paragraph 29 above; and
- iii. the State has submitted all of its cost share payments to U.S. EPA, has undertaken responsibility for O&M, and if applicable, has accepted all interest in real property pursuant to 40 CFR § 35.6805(I)(4).

33. SEVERABILITY

If any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Contract and such invalidity, illegality or unenforceability shall not affect any other provision of this Contract, and this Contract shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

34. DRUG FREE WORKPLACE

U.S. EPA acknowledges that it is subject to the Drug Free Workplace Act of 1988, as implemented by 40 C.F.R. §§ 23.500-23.506.

35. ISSUE RESOLUTION

Any disagreements arising under this Contract shall be resolved to the extent possible by the RPM and the SPM. The RPM and the SPM, in consultation with their respective supervisors, shall use their best efforts to resolve disagreements informally.

In the event of a dispute between DTSC and U.S. EPA project staff that can not be resolved informally, U.S. EPA and DTSC agree that resolution of disputes will be given a high priority and the Dispute Resolution Process (DRP) should minimize schedule delays. The dispute will be elevated in accordance with the DRP process outlined below.

Staff of either Agency may choose to initiate the DRP. All disputes will be elevated to the first line supervisors of each Agency. At DTSC, disputes are raised to the Site Mitigation Unit Chief; at U.S. EPA, most disputes are raised to the Superfund Section Chief. Once the DRP has been initiated, U.S. EPA and DTSC shall not take independent action until the DTSC Unit Chief and EPA Section Chief have discussed the issues. DTSC and U.S. EPA will strive to ensure that such discussions occur, whenever possible, within three days of initiating the DRP.

In the event that either one or both line supervisors are not available, each Agency may designate acting Section (U.S. EPA) or Unit (DTSC) Chiefs to resolve the dispute. Unresolved disputes may be further elevated to the Branch Chief at DTSC and the Branch Chief at U.S. EPA, and if necessary, to the Deputy Director, Site Mitigation and Brownfields Reuse Program, of the DTSC, or designee, and the Division Director of Superfund, U.S. EPA or designee. If the Deputy Director, Site Mitigation and Brownfields Reuse Program, of DTSC and Division Director of Superfund, U.S. EPA, are unable to jointly resolve the dispute, DTSC and U.S. EPA may pursue any rights available to them under CERCLA, the California Health and Safety Code or any other provision of law.


### 36. AUTHORITY

Each undersigned representative of the parties certifies that he or she is fully authorized to enter into the terms and conditions of this Contract and to legally bind such party to this Contract.

In witness whereof, the parties hereto have executed this Contract in five (5) copies, each of which shall be deemed an original.

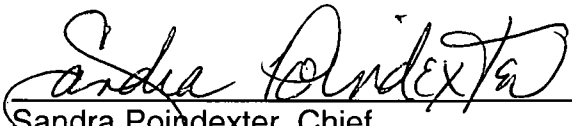



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

 9/10/2007  
\_\_\_\_\_  
Keith Takata, Director  
Superfund Division  
U.S. Environmental Protection Agency, Region IX

STATE OF CALIFORNIA

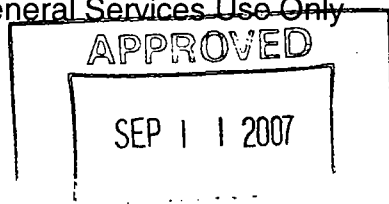
 for Maureen Gorsen 9/11/07  
\_\_\_\_\_  
Maureen Gorsen, Director  
Department of Toxic Substances Control  
California Environmental Protection Agency

 9/11/07  
\_\_\_\_\_  
Sandra Poindexter, Chief

Contracts and Business Management Branch  
Department of Toxic Substances Control  
California Environmental Protection Agency  


Department of General Services Use Only

\_\_\_\_\_  
Date



Appendix B

Frontier Fertilizer Superfund Site  
SOW  
For  
State Superfund Contract #2007-13

1. INTRODUCTION

This Statement of Work describes activities to be accomplished for Source Control at the Frontier Fertilizer Superfund Site on behalf of the United States Environmental Protection Agency, Region IX, under this State Superfund Contract. The activities are derived from the Record of Decision (Appendix A).

2. WORK TO BE PERFORMED

2.1 Construction and operation of the In-situ Thermal Heating System

3. CALCULATED COSTS

3.1 Calculated Costs for In-situ Thermal Heating System

Total construction and operation cost	\$10,143,000
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Calculated State Share	\$1,014,300
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Please see attached spreadsheet with the detailed cost information.

**Frontier Fertilizer In-Situ Thermal Treatment Budgetary Cost Calculation**

Treatment Volume (cubic yards):	82,573
Permits and Negotiations	50,000
Air Emissions	
Sewer Discharge	
QA/QC	240,000
Construction Management	
Construction Inspection	
Progress and Performance Monitoring & Reporting	
Air Monitoring	
Wastewater Monitoring	
Groundwater Monitoring	
Miscellaneous Waste Management	
Process Gas Emission Monitoring	
Progress and Performance Coordination	
Data Management and Reports	
Subsurface Installation	3,720,000
Procurement/Mobilization/Demobilization	1,227,600
Existing Infrastructure Modifications	260,400
Abandon Wells and Utilities	
Replace Extraction System Utilities	
Surface Grading	
Fencing and Signs/Access Controls	
Borings, Sampling & Analysis, Wells and	
Electrodes/Conductors	1,860,000
Soil Gas Extraction Wells	
Thermal Monitoring Points	
Groundwater Extraction wells	
Groundwater Monitoring wells	
Supplemental Soil Characterization	
Heating Electrodes/Conductors	
Waste Management	372,000
Drill Cutting Disposal	
Well Development Liquid Disposal	
Construction Debris Disposal	
Surface Installation and Start-up:	1,680,000
Mobilization/Demobilization	67,200
Utility	151,200
Worker Temporary Facilities	
Electrical Service	
Gas Service	
Potable Water Service	
Telephone Service	
Treatment System Components	1,461,600
Power Control Unit	
Electrode wiring	
Thermal Monitoring Point Data Collection	

Thermal Monitoring Points Wiring	
Groundwater Treatment System	
Groundwater Treatment System Plumbing and Wiring	
Soil Gas Treatment System	
Soil Gas Surface Emission Control	
Soil Gas Collection Plumbing and Wiring	
Equipment Sound Wall	
<b>Remediation System Operation</b>	<b>3,130,000</b>
<b>ISTT Control and Process Monitoring</b>	<b>783,000</b>
Process Gas Sampling and Analysis	
Condensate Sampling and Analysis	
GW Treatment Sampling and Analysis	
<b>Utilities</b>	<b>\$1,500,000</b>
Electricity Usage (\$0.15/kWh ~ 360 days):	
Telephone	
Potable Water	
Worker Temporary Facilities	
Treated GW Disposal	
<b>Waste Management</b>	<b>254,000</b>
Construction Debris Disposal	
Condensate Disposal	
LGAC & VGAC Regeneration	
<b>Post Treatment Characterization</b>	<b>254,000</b>
Drilling Subcontractor for Confirmatory Borings	
Soil Sample Analysis	
Well Abandonment	
<b>Demobilize Surface Equipment</b>	<b>85,000</b>
<b>Waste Management</b>	<b>254,000</b>
Drill Cutting Disposal	
Well Development Liquid Disposal	
Construction Debris Disposal	
<b>Contingency Allowance (15%)</b>	<b>1,323,000</b>
<b>Total Estimated Cost:</b>	<b>10,143,000</b>



## Department of Toxic Substances Control



Linda S. Adams  
Secretary for  
Environmental Protection

Maureen F. Gorsen, Director  
1001 "I" Street  
P.O. Box 806  
Sacramento, California 95812-0806



Arnold Schwarzenegger  
Governor

September 12, 2007

U.S. Environmental Protection Agency  
Attn: Bonnie Arthur  
75 Hawthorne Street  
Mail Code: SFD-8-1  
San Francisco, CA 94105

Subject: Agreement Number 07-T3368

Dear Ms. Arthur:

Enclosed for your records is your original signed, fully executed Standard Agreement for the above mentioned agreement.

Thank you for your cooperation during the entire process. If you have any questions, please contact me at (916) 323-2666.

Sincerely,

Rod Roelen  
Contract Analyst

Enclosure

cc: Steve Ross